

BEFORE THE  
STATE COMMITTEE OF PSYCHOLOGISTS  
STATE OF MISSOURI

STATE COMMITTEE OF PSYCHOLOGISTS,	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 02-0338PS
	)	
KAREN CASADA,	)	
	)	
Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DISCIPLINARY ORDER

Statement of the Case

On September 19, 2002, the Administrative Hearing Commission entered its Findings of Fact and Conclusions of Law in the case of State Committee of Psychologists v. Karen Casada, Case No. 02-0338PS. In that Findings of Fact and Conclusions of Law, the Administrative Hearing Commission found that Respondent's license to practice as a psychologist is subject to disciplinary action by the State Committee of Psychologists ("Committee") for violating § 337.035.2(2), (4), (5), (13) & (15), RSMo 2000.

The Committee has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Finding of Facts and Conclusions of Law. The Findings of Fact and Conclusions of Law of the Administrative Hearing Commission are incorporated herein by reference.

The Committee set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion.

Pursuant to notice and § 621.110, RSMo, the Committee held a hearing on December 13, 2002, at the Embassy Suites Hotel, 220 West 43<sup>rd</sup> Street, Kansas City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. The Board was represented by Ron Smith, Assistant Attorney General. Respondent was not present for the hearing and was not represented by counsel. Six members of the Board were present and participated in the Board's deliberation, vote, and order.

#### Findings of Fact

1. Respondent, Karen R. Casada ("Casada"), is licensed by the Committee as a psychologist, license No. PY01670.
2. In accordance with the Administrative Hearing Commission's September 19, 2002, Findings of Fact and Conclusions of Law, the psychology license of Respondent is subject to disciplinary action by this Commission pursuant to § 337.035.2(2), (4), (5), (13) & (15), RSMo 2000.

#### Conclusions of Law

3. The Board has jurisdiction over this proceeding pursuant to § 621.110, RSMo 2000 and § 337.035.2, RSMo 2000.

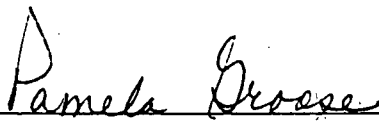
Order

THEREFORE, having fully considered all the evidence before this Board, and giving full weight to the Findings of Fact and Conclusions of Law of the Administrative Hearing Commission, it is the Order of the State Committee of Psychologists that Respondent's license to practice as a psychologist in the state of Missouri, License No. PY01670, is hereby revoked.

Upon receipt of this Order, Respondent, Karen Casada, shall immediately return all evidence of Missouri licensure to the State Committee of Psychologists.

SO ORDERED EFFECTIVE THIS 22nd day of January, 2003.

STATE COMMITTEE OF PSYCHOLOGISTS

  
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Pam Groose  
Executive Director

Before the  
Administrative Hearing Commission  
State of Missouri



STATE COMMITTEE OF  
PSYCHOLOGISTS,

Petitioner,

vs.

KAREN R. CASADA,

Respondent.

No. 02-0338 PS

**DECISION**

Karen R. Casada's psychologist license is subject to discipline for false billings.

**Procedure**

On March 4, 2001, the State Committee of Psychologists (Committee) filed a complaint. The Committee filed a motion for summary determination on August 6, 2002. Pursuant to section 536.073.3,<sup>1</sup> our Regulation 1 CSR 15-2.450(4)(C) provides that we may decide this case without a hearing if any party establishes facts that no party disputes and entitle any party to a favorable decision. *ITT Commercial Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 380-82 (Mo. banc 1993). We gave Casada until September 9, 2002, to respond to the motion, but she did not respond. Therefore, we conclude that the following facts, as established by the pleadings and the Committee's certified exhibit, are undisputed.

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<sup>1</sup>Statutory references are to the 2000 Revised Statutes of Missouri, unless otherwise noted.

### **Findings of Fact**

1. Casada holds psychologist License No. PY0102308. That license was current and active at relevant times. Casada surrendered her license on August 28, 2002.

2. Medicare pays for services to beneficiaries at pre-determined rates according to the procedure provided. Each procedure has an identifying number. Procedure No. 90801 is a complete medical and psychiatric history, diagnosis, and evaluation of patient ability and willingness to resolve problems. Medicare uses it once at the onset of illness, and for a new episode of the illness after a hiatus, and for admission or readmission to inpatient status due to complications from the illness. Procedure No. 90801 pays for more than routine psychotherapy. Billing procedure 90801, when only routine psychotherapy is provided, constitutes billing for services not rendered.

3. From October 27, 1996, to July 15, 1998, Casada billed Medicare 3,087 times under procedure 90801. Not all of those billings were for onset of illness, for a new episode of the illness after a hiatus, or for admission or readmission to inpatient status due to complications from the illness. Such conduct constitutes billing for services not rendered.

4. From October 27, 1996, to July 15, 1998, Casada had a psychologist-patient relationship with eight patients at the Marshfield Care Center. Casada billed Medicare under procedure 90801 multiple times for the eight patients, and billed that procedure weekly for one of those patients instead of billing for the routine psychotherapy actually provided.

5. Casada visited the eight patients at Marshfield Care Center every Tuesday to provide psychotherapy, which was of no benefit to them because they all suffered from either dementia or retardation. Casada billed Medicare for those sessions. Casada also called the Marshfield Care Center staff every Friday to discuss the patients, which did not constitute psychotherapy. She billed excessive fees for those conversations to Medicare as psychotherapy.

6. From October 27, 1996, to July 15, 1998 – a period of less than two years – Casada billed Medicare for somewhere between 163 and 269 undocumented visits, which constitutes billing for services not rendered.

7. On November 14, 2000, Casada pled guilty to:

- a. health care fraud under 18 U.S.C. § 1347; and
- b. mail fraud under 18 U.S.C. § 1341.

*United States v. Casada*, No. 00-03063-01-CR-S-SOW (W.D. Mo.).

### Conclusions of Law

We have jurisdiction to hear the Committee's complaint regarding Casada's surrendered license under section 337.035.2, which provides:

The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or **any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license[.]**

(Emphasis added.) The Committee has the burden of proving that Casada has committed conduct for which the law allows discipline. *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

The Committee cites section 337.035.2(2), which allows discipline if:

The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

The crimes to which Casada pled guilty are health care fraud under 18 U.S.C. § 1347, which states:

Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice –

(1) to defraud any health care benefit program; or

(2) to obtain, by means of **false** or fraudulent pretenses, **representations**, or promises, any of the **money** or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than ten years, or both[;]

(emphasis added) and mail fraud under 18 U.S.C. § 1341, which states:

Whoever, having devised . . . any scheme . . . **for obtaining money . . . by means of false . . . pretenses . . .**, for the purpose of executing such scheme . . . places in any . . . authorized depository . . . any . . . thing . . . or receives therefrom, any such . . . thing, shall be fined under this title or imprisoned not more than five years, or both.

(Emphasis added.)

Fraud is reasonably related to a psychologist's qualifications because those qualifications include "good moral character." Section 337.020.2. Therefore, Casada's license is subject to discipline under section 337.065.2(2) for pleading guilty to a crime reasonably related to a psychologist's qualifications.

An essential element is one that must be present in every case to obtain a conviction.

*State ex rel. Atkins v. State Bd. of Accountancy*, 351 S.W.2d 483, 485 (Mo. App., K.C.D. 1961). Fraud is an intentional perversion of truth to induce another, in reliance on it, to part with some valuable thing belonging to him. *State ex rel. Williams v. Purl*, 128 S.W. 196, 201 (Mo. 1910). Dishonesty is a lack of integrity, a disposition to defraud or deceive. MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 333 (10th ed. 1993). Both health care fraud and mail fraud require that a defendant have a plan to obtain something valuable through false statements.

Therefore, Casada's license is subject to discipline under section 337.035.2(2) for pleading guilty to a crime essential elements of which are fraud and dishonesty.

Moral turpitude is:

an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything "done contrary to justice, honesty, modesty, and good morals."

*In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985) (quoting *In re Wallace*, 19 S.W.2d 625 (Mo. banc 1929)). Both health care fraud and mail fraud are base acts against society in general.

Therefore, Casada's license is subject to discipline under section 337.035.2(2) for pleading guilty to a crime involving moral turpitude.

The Committee cites section 337.035.2(4), which allows discipline for:

Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation[.]

Deception is the act of causing someone to accept as true what is not true. MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 298 (10th ed. 1993). Misrepresentation is a falsehood or untruth made with the intent and purpose of deceit. MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 744 (10th ed. 1993). Casada admits that she obtained fees from a third-party payor by fraud and misrepresentation, which, as we have defined them above, always include deception. Therefore, we conclude that Casada is subject to discipline under section 337.035.2(4).

The Committee cites cause for discipline under section 337.035.2(5) for:

fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter[.]

We have already defined fraud, misrepresentation and dishonesty. Casada admits that her conduct constitutes fraud, misrepresentation and dishonesty in the performance of the functions



or duties of a psychologist. Therefore, we conclude that Casada's license is subject to discipline under section 337.035.2(5).

The Committee cites section 337.035.2(13), which allows discipline for:

Violation of any professional trust or confidence[.]

Professional trust is the reliance on the special knowledge and skills that professional licensure evidences. *Trieseler v. Helmbacher*, 168 S.W.2d 1030, 1036 (Mo. 1943). We do not infer that Casada violated any such trust between her and the patients she regularly visited because she did not bill her time to them. However, Casada admits that her conduct constitutes a violation of the trust placed in her by a third-party payor. Therefore, we conclude that Casada's license is subject to discipline under section 337.035.2(13).

The Committee cites section 337.035.2(15), which allows discipline for:

Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

The Committee cites its Regulation 4 CSR 235-5.030, entitled "Ethical Rules of Conduct," which provides:

(5) Client Welfare.

\* \* \*

(C) Unnecessary Service. The psychologist shall not exploit clients by providing unnecessary psychological service.

\* \* \*

(9) Remuneration.

(A) Financial Arrangements.

\* \* \*

3. The psychologist shall not exploit a client or responsible payor by charging a fee that is excessive for the services performed[.]

\* \* \*

(B) Improper Arrangements.

\* \* \*

4. The psychologist shall not bill for services that are not rendered[.]

\* \* \*

(11) Violations of Law.

\* \* \*

(B) Use of Fraud, Misrepresentation or Deception. The psychologist shall not use fraud, misrepresentation or deception . . . in billing clients or third-party payors, in providing psychological service . . . or in conducting any other activity related to the practice of psychology.

Casada did not violate Regulation 4 CSR 235-5.030(5)(C) because she did not overbill the clients. However, she exploited responsible payors by providing unnecessary psychological services and charging a fee that is excessive for the services performed; billed for services that were not rendered; and used fraud, misrepresentation and deception in billing third-party payors and in providing psychological services. Therefore, we conclude that Casada is subject to discipline under section 337.035.2(15).

#### Summary

We conclude that Casada's license is subject to discipline under section 337.035.2(2), (4), (5), (13), and (15). We cancel the hearing.

SO ORDERED on September 19, 2002.

  
WILLARD C. REINE  
Commissioner